

FILEDUNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

AUG 24 2016

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,
Plaintiff-Appellee,
v.
GREGORY AKEL,
Defendant-Appellant.

No. 15-10494

D.C. No.
2:14-cr-00177-LDG-GWF-1
District of Nevada,
Las Vegas

ORDER

Before: HAWKINS, BERZON, and HURWITZ, Circuit Judges.

Appellee's unopposed motion for summary reversal and remand (Docket Entry No. 28) is granted. Appellant's sentence is vacated. *See United States v. Whitney*, 673 F.3d 965, 972, 976 (9th Cir. 2012) (reversing and remanding for resentencing before a different district judge because government breached its obligation to recommend a low-end Guideline sentence). This appeal is remanded to the district court for the purpose of resentencing defendant.

The district court shall order this case be reassigned to another district judge, in accordance with local court rules, for further proceedings consistent with this order. *See id.* at 976; *United States v. Camper*, 66 F.3d 229, 233 (9th Cir. 1995) (holding that, under *Santobello v. New York*, 404 U.S. 257 (1971), resentencing

after a remand for specific performance of a plea bargain must be performed by a different judge). We remand to a different judge for re-sentencing because the case law requires us to do so. We intend no criticism of the district judge by this action, and none should be inferred. *See United States v. Johnson*, 187 F.3d 1129, 1136 n.7 (9th Cir. 1999).

VACATED and REMANDED.